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Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
	BACKGROUND	
1. EBTM advertises to United States customers, providing for conversions for prices in the U.S. Dollar. (Opp. 3:6-7)	1. Objections: hearsay; speculation; no foundation; lacks relevance under <i>Pebble Beach Co. v. Caddy</i> , 453 F.3d 1151, 1155 (9th Cir. 2006); citation to Complaint violates <i>Wenz v. Memery Crystal</i> , 55 F.3d 1503, 1505 (10th Cir. 1995).	1. □ Sustained □ Overruled
Supporting Evidence Compl. ¶6		
• "	2. Objections:	2. □ Sustained
advertised and sold on EBTM's website are from California-based companies, including RLP's own Macbeth brand. (Opp. 3:7-9) Supporting Evidence Rofer Decl. ¶3	Declaration of Aron P. Rofer and Exhibits A-M are inadmissible because: hearsay; speculation; no foundation; information from EBTM's Website in February 2008, four months after the complaint was filed, is irrelevant for jurisdictional purposes, <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); pages printed from the Internet lack authenticity and violate Federal Rules of Evidence Rule 901(a) because there is no date, no proof of personal knowledge of who maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect 10, Inc. v. Cybernet Ventures, Inc.</i> 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); <i>Wady v. Provident Life and Accident Ins. Co. of America</i> , 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence; and lacks relevance under <i>Pebble Beach Co. v. Caddy</i> 453 F.3d 1151, 1155 (9th Cir. 2006).	Overruled

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	3. Thereafter, EBTM	3. Objections:	3. □ Sustained
3 4 5	continued to systematically conduct business in the United States and California. For	Declaration of Aron P. Rofer and Exhibits A-M are inadmissible because: hearsay; speculation; no foundation; information from EBTM's Website in February 2008, four months after the complaint was filed, is	□ Overruled
6	example, on September 5, 2007,	irrelevant for jurisdictional purposes, Steel	
7	EBTM announced	v. U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); pages printed from the Internet	
8	that it had entered into wholesale and	lack authenticity and violate Federal Rules	
9	online agreements	of Evidence Rule 901(a) because there is no date, no proof of personal knowledge of	
10	with Adeline, based in California.	who maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect</i>	
11	(Opp. 3:11-14)	10, Inc. v. Cybernet Ventures, Inc. 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002);	
12 13	Supporting Evidence Rofer Decl. ¶¶ 10-11,	Wady v. Provident Life and Accident Ins.	
14	Exs. I-J	Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and	
15		evidence; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> ,	
16		284 F.3d 1007, 1019 (9th Cir. 2002);	
17		assumes facts not in evidence; and lacks relevance under <i>Pebble Beach Co. v.</i>	
18	4 41 6	Caddy 453 F.3d 1151, 1155 (9th Cir. 2006).	4 🗖 🤅
19	4. Also, for example, in November 2007,	 Objections: Declaration of Aron P. Rofer and Exhibits 	4. □ Sustained
20	EBTM announced "the launch of its	A-M are inadmissible because: hearsay;	☐ Overruled
21	US webstore for	speculation; no foundation; information from EBTM's Website in February 2008, four	
22	Atticus Clothing" in partnership with	months after the complaint was filed, is irrelevant for jurisdictional purposes, <i>Steel</i>	
23	Music Today, part of the Live Nation	v. U.S., 813 F.2d 1545, 1549 (C.A.9	
24	Group of	(Cal.) 1987); pages printed from the Internet lack authenticity and violate Federal Rules	
25	companies. Live Nation is	of Evidence Rule 901(a) because there is no date, no proof of personal knowledge of	
26	headquartered in California.	who maintains Web site, or who authored	
	(Opp. 3:14-17)	documents, or accuracy of contents, <i>Perfect</i> 10, <i>Inc.</i> v. <i>Cybernet Ventures, Inc.</i> 213 F.	
27 28		documents, or accuracy of contents, <i>Perfect</i> 10, <i>Inc.</i> v. <i>Cybernet Ventures</i> , <i>Inc.</i> 213 F.	

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1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2 3 4 5 6	Supporting Evidence Rofer Decl. ¶ 6 and Ex. E	Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady v. Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence; and lacks	
7		relevance under <i>Pebble Beach Co. v. Caddy</i> 453 F.3d 1151, 1155 (9th Cir. 2006).	
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	5. EBTM further touted that "the launch of the US webstore is in line with our strategy for future growth." (Opp. 3:17-18) Supporting Evidence Rofer Decl. ¶ 6 and Ex. E	Declaration of Aron P. Rofer and Exhibits A-M are inadmissible because: hearsay; speculation; no foundation; information from EBTM's Website in February 2008, four months after the complaint was filed, is irrelevant for jurisdictional purposes, <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); pages printed from the Internet lack authenticity and violate Federal Rules of Evidence Rule 901(a) because there is no date, no proof of personal knowledge of who maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect 10, Inc. v. Cybernet Ventures, Inc.</i> 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); <i>Wady v. Provident Life and Accident Ins. Co. of America</i> , 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence; and lacks relevance under <i>Pebble Beach Co. v. Caddy</i> 453 F.3d 1151, 1155 (9th Cir. 2006).	5. Sustained Overruled
25 26 27 28	6. Masters-EBTM's director and largest single shareholder-systematically communicated with California-based	6. Objections: Irrelevant. Masters communicated with Plaintiffs in his position as managing director of Lowlife, a subsidiary of EBTM; hearsay; no foundation; speculation; vague and ambiguous as to time; and citation to Complaint violates	6. □ Sustained □ Overruled

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2 3 4 5 6 7 8 9	RLP regarding the Atticus, Macbeth and Loserkids brands and other matters. (3:19-21) Supporting Evidence Compl. "¶¶ 25, 26, 120; Declaration of Diana Crawford ("Crawford Decl.") ¶¶ 2-4 and Exs. A-D	Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995); Declaration of Diana Crawford and Exhibits A-D are inadmissible because: the e-mails between Plaintiffs and Masters and/or Lowlife are irrelevant under Doe v. Unocal Corp., 248 F.3d 915, 927 (C.A.9 (Cal.) 2001) and Steel v. U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987) because there was no direct correspondence with EBTM; misstates Ms. Crawford's declaration; assumes facts not in evidence; lacks foundation; and lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	ouge s xumg
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	7. Moreover, in August 2007, when RLP complained about Lowlife's performance under the relevant agreements, Masters directed RLP to communicate with EBTM director Simon Hargreaves. (Opp. 3:22 – 4:1-3) Supporting Evidence Crawford Decl. ¶ 4 and Ex. D; Rofer Decl. ¶ 9, 13 and Exs. H, M	7. Objections: Irrelevant; hearsay; no foundation; speculation; misstates Ms. Crawford's declaration re: Mr. Hargreaves because there was no direct correspondence with EBTM; assumes facts not in evidence; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002); Declaration of Aron P. Rofer and Exhibits A-M are inadmissible because: information from EBTM's Website in February, 2008, four months after the complaint was filed, is irrelevant for jurisdictional purposes, <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); pages printed from the Internet lack authenticity and violate Federal Rules of Evidence Rule 901(a) because there is no date, no proof of personal knowledge of who maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect 10, Inc. v. Cybernet Ventures, Inc.</i> 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); <i>Wady v. Provident Life and Accident Ins. Co. of America</i> , 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); lacks foundation; misstates testimony and evidence; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence; lacks relevance	7. Sustained Overruled

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2		under <i>Pebble Beach Co. v. Caddy</i> (9th Cir. 2006) 453 F.3d 1151, 1155.	3 mg 2 mmg
3 4 5 6 7 8 9 10 11	8. When RLP initially attempted to serve the complaint in this action upon Breeden in the United Kingdom, he was traveling in California. (Opp. 4:5-10) Supporting Evidence Declaration of Malcolm Satchell "Satchell Decl." ¶¶ 3-4	8. Objections: Irrelevant; hearsay; no foundation; speculation; misstates Declaration of Malcolm P. Satchell ¶ 4; assumes facts not in evidence; lacks relevance under C.D. Cal.Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1155 (9th Cir. 2006); lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	8. Sustained Overruled
12 13 14 15 16 17 18	9. He stayed at the W Hotel located at 421 West B. Street in San Diego, California. (Opp. 4:7-9) Supporting Evidence Declaration of Amy Arroyo ("Arroyo Decl.") ¶ 3	9. Objections: Hearsay; no foundation; speculation; <u>Declaration of Amy Arroyo</u> is inadmissible because: ¶ 3 constitutes hearsay; assumes facts not in evidence; lacks foundation; lacks relevance under <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987).	9. □ Sustained □ Overruled
19 20 21 22 23 24 25 26 27 28	Decl.") ¶ 3 10. Moreover, at a recent industry convention in San Diego, EBTM rented a booth to advertise and take orders for their Atticus brand. (Opp. 4:8-10) Supporting Evidence Declaration of Amy Arroyo ("Arroyo Decl.") ¶ 4	10. Objections: Hearsay; no foundation; speculation; Declaration of Amy Arroyo ¶ 4 is inadmissible because: conduct in January 2008, three months after the complaint was filed, is irrelevant for jurisdictional purposes, <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); lacks foundation; misstates Arroyo's Declaration because no allegation EBTM was present; lacks credibility in violation of <i>Rio Properties</i> , <i>Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002).	10. □ Sustained □ Overruled

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	11. Upon information	11. Objections:	11. ☐ Sustained
3	and belief, EBTM reviewed and	Hearsay; no foundation; speculation; <u>Declaration of Diana Crawford</u> and Exhibits	☐ Overruled
4 5	approved of the terms of each of	A-D are inadmissible because: the e-mails between Plaintiffs and Masters and/or	
6	these agreements, including their	Lowlife are irrelevant under <i>Doe v. Unocal Corp.</i> , 248 F.3d 915, 927 (C.A.9	
7	provisions that California law	(Cal.) 2001) and <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987) because	
8	applied. More specifically, during	there was no direct correspondence with EBTM; misstates Ms. Crawford's	
9	negotiation of the Atticus Asset	declaration; assumes facts not in evidence; lacks foundation; lacks credibility in	
11	Purchase Agreement and	violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir.	
12	accompanying Wind-Down	2002); citation to complaint violates <i>Wenz v. Memery Crystal</i> , 55 F.3d 1503, 1505 (10th	
13	Agreements,	Cir. 1995); argumentative; lacks foundation;	
14	Lowlife's agents stated that their	mischaracterizes facts; misstates testimony; vague and ambiguous; calls for legal	
15	"financing source," now known not to	conclusion; assumes facts not in evidence.	
16 17	have been a "financing source"		
18	but instead competitor EBTM,		
19	needed to review certain documents		
20	or contract terms		
21	before they could be agreed upon.		
22	(Opp. 5:20-26)		
23	Supporting Evidence		
24	Crawford Decl. ¶ 5; Compl. ¶¶ 23-29		
25	12. On May 31, 2007,	12. Objections:	12. □ Sustained
26	two days after the	Hearsay; no foundation; speculation; citation to	П О1-1
27 28	execution of the definitive agreements to sell	Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995); argumentative; mischaracterizes facts; vague	☐ Overruled

- <u>+</u>	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	the Atticus brand to	and ambiguous; calls for legal conclusion;	
3	Lowlife and the related Wind-Down	assumes facts not in evidence.	
4	Agreements,		
5	Masters (Lowlife's sole		
	owner) disclosed		
6	for the first time		
7	that he was not		
8	actually working with a "financing		
9	source" or		
	obtaining loans or		
10	investments to underwrite a		
11	portion of the		
12	purchase price, as		
13	his agent had		
	represented during		
14	the negotiations, but instead Masters		
15	apparently had been		
16	conspiring with		
17	EBTM, a direct competitor of		
	Loserkids, to		
18	immediately sell		
19	Lowlife and its		
20	rights to the Atticus brand to EBTM.		
21	(Opp. 5:27-28 - 6:1		
22	-5)		
23	Supporting Evidence		
	Compl. ¶¶ 8, 25		
24	13. Lowlife and	13. Objections:	13. ☐ Sustained
25	Masters served and	Hearsay; no foundation; speculation; citation to	
26	continue to serve as	Complaint violates Wenz v. Memery Crystal, 55	☐ Overruled
27	EBTM's agents. (Opp. 6:8-9)	F.3d 1503, 1505 (10th Cir. 1995);	
28	(Ορρ. 0.0-7)	argumentative; mischaracterizes facts; vague and ambiguous; calls for legal conclusion;	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	Supporting Evidence	assumes facts not in evidence.	
3	Compl. ¶¶ 12		
4	14. On June 6, 2007	14. Objections:	14. ☐ Sustained
5	(five days after EBTM publicly	Hearsay; no foundation; speculation; citation to Complaint violates <i>Wenz v. Memery</i>	☐ Overruled
6	announced it had acquired Lowlife),	<i>Crystal</i> , 55 F.3d 1503, 1505 (10th Cir.	
7	EBTM commenced	1995); Exhibit F shows correspondence between Lowlife and Trinity Street, not	
8	a secret plot to shut down RLP's	EBTM; lacks relevance under <i>Doe v</i> . <i>Unocal Corp.</i> 248 F.3d 915, 927 (C.A.9	
9	website, Loserkids.uk.com,	(Cal.) 2001); assumes facts not in evidence;	
10	by falsely	lacks relevance under <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls	
11	informing the website fulfillment	for legal conclusion; lacks credibility in	
12	provider, Andy	violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9 th Cir.	
13	Murray ("Murray") at	2002).	
14	Trinity Street Direct ("Trinity		
15	Street"), that		
16	EBTM had purchased the		
17	website, that		
18	fulfillment would be switched from		
19	Trinity Street to		
20	EBTM, and that Loserkids.uk.com		
21	would be shut		
22	down. (Opp. 6:23-26;		
23	7:1-3)		
24	Supporting Evidence		
25	Compl. ¶¶ 71-81;		
26	Declaration of Andy Murray ("Murray		
27	Decl.") ¶ 3 and Ex. A		
28	15. EBTM then	15. Objections:	15. ☐ Sustained

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Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
secretly discussed logistics for transitioning the loserkids.uk.com business from Trinity Street to EBTM, including a planned launch date, logistics for sending all loserkids.uk.com inventory to EBTM, and plans to shut down the site. (Opp. 7:5-8)	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995); Declaration of Mr. Murray lacks credibility because it constitutes hearsay; Exhibit F shows correspondence between Lowlife and Trinity Street, not EBTM; lacks relevance under Doe v. Unocal Corp. 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes facts not in evidence; lacks foundation; lacks relevance under Steel v. U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	□ Overruled
Supporting Evidence Compl. ¶ 72-81; Murray Decl ¶¶ 3-7, 10 and Exs. A-D		
16. Only after the Loserkids.uk.com site had been shut down, on August 6, 2007, did EBTM contact RLP about these actions, falsely and fraudulently alleging that there was an emergency and that Trinity Street had forced the closure of the site on virtually no notice. (Opp. 7:8-12)	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995); Declaration of Diana Crawford and Exhibits A-D are inadmissible because: the e-mails between Plaintiffs and Masters and/or Lowlife are irrelevant under Doe v. Unocal Corp., 248 F.3d 915, 927 (C.A.9 (Cal.) 2001) and Steel v. U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987) because there was no direct correspondence with EBTM; misstates Ms. Crawford's declaration; assumes facts not in evidence; lacks foundation; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	16. ☐ Sustained ☐ Overruled
Supporting Evidence Compl. ¶ 77-79; Crawford Decl. ¶ 2 and	because: it constitutes hearsay; Exhibit F shows correspondence between Lowlife and Trinity Street, not EBTM; lacks relevance under <i>Doe v. Unocal Corp.</i> 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes facts not in	

Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
Ex. A; Murray Decl. ¶¶ 10-11	evidence; lacks foundation; lacks relevance under <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002).	
17. These actions and	17. Objections:	17. □ Sustained
false statements were intentionally undertaken to fraudulently induce	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995);	□ Overruled
RLP to agree to	1993),	
turn the operation of the loserkids.uk.com	<u>Declaration of Mr. Murray</u> lacks credibility because: Exhibit F shows correspondence	
site over to EBTM,	between Lowlife and Trinity Street, not EBTM; lacks relevance under <i>Doe v</i> .	
a direct competitor of RLP.	Unocal Corp. 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes facts not in evidence;	
(Opp. 7:12-15)	lacks relevance under <i>Steel v. U.S.</i> , 813	
Supporting Evidence	F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility in	
Compl. ¶ 77-79; Murray Decl. ¶¶ 10-11;	violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir.	
Crawford Decl. ¶¶ 2-4 and Exs. A-D	2002);	
	Declaration of Diana Crawford and Exhibits	
	A-D are inadmissible because: the e-mails between Plaintiffs and Masters and/or	
	Lowlife are irrelevant under <i>Doe v. Unocal Corp.</i> , 248 F.3d 915, 927 (C.A.9	
	(Cal.) 2001) and <i>Steel v. U.S.</i> , 813 F.2d	
	1545, 1549 (C.A.9 (Cal.) 1987) because there was no direct correspondence with	
	EBTM; misstates Ms. Crawford's	
	declaration; assumes facts not in evidence; lacks credibility in violation of	
	Rio Properties, Inc. v. Rio Int'l Interlink,	
10 In compaction	284 F.3d 1007, 1019 (9th Cir. 2002).	10 🗖 🕻
18. In connection with this same	18. Objections: Hearsay; no foundation; speculation; citation to	18. □ Sustained
fraudulent scheme	Complaint violates Wenz v. Memery Crystal, 55	☐ Overruled

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	and having	F.3d 1503, 1505 (10th Cir. 1995);	
3	intentionally and misleadingly	argumentative; calls for legal conclusion; misstates and assumes facts not in evidence.	
4	informed Trinity		
5	Street that EBTM "owned" the		
	Loserkids.uk.com		
6	site, EBTM		
7	misappropriated RLP's trade secret		
8	protected customer		
9	data. (Opp. 7:20- 22)		
10	22)		
11	Supporting Evidence		
12	Compl. ¶¶ 133-142		
13	19. More specifically,	19. Objections:	19. ☐ Sustained
	on July 4, 2007, at Lowlife's request,	Hearsay; no foundation; speculation; <u>Declaration of Mr. Murray</u> lacks credibility	☐ Overruled
14	Trinity Street sent	because: Exhibit F shows correspondence	
15	to Lowlife the www.Loserkids.uk.	between Lowlife and Trinity Street, not EBTM;	
16	com customer data,	lacks relevance under <i>Doe v. Unocal Corp.</i> 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes	
17	which included	facts not in evidence; lacks foundation; lacks	
18	names, shipping addresses, and	relevance under <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls for legal	
19	email addresses for	conclusion; lacks credibility in violation of	
20	any customers that were shipped	Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	
	product ordered		
21	from		
22	www.Loserkids.uk.		
23	customers who		
24	registered for the website's mailing		
25	list. (Opp. 7:22-25;		
26	8:1)		
27	Supporting Evidence		
28	Murray Decl. ¶ 8 and		

Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
Exs. E-F		
20. Thereafter, EBTM accessed and misappropriated RLP's trade secrets including its customer list and data knowing they did not own or have rights to disclose that information to EBTM and were under a duty as the operator of RLP's website not to do so. (Opp. 8:2-5) Supporting Evidence Compl. ¶ 135-139; Murray Decl. ¶ 9 and	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995); argumentative; calls for legal conclusion; misstates and assumes facts not in evidence; Declaration of Mr. Murray lacks credibility because: Exhibit F shows correspondence between Lowlife and Trinity Street, not EBTM; lacks relevance under Doe v. Unocal Corp. 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes facts not in evidence; lacks relevance under Steel v. U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	20. □ Sustained □ Overruled
Ex. F 21. Moreover, EBTM	21. Objections:	21. □ Sustained
director Hatty Fawcett emailed Lowlife about the data, making clear that EBTM was is possession of it and had or has plans to use it: "I've now had a chance to look at the Loser kids customer data from Trinity Street I was also expecting to See both billing and shipping information - but have only been provided with one	Hearsay; no foundation; speculation; Declaration of Mr. Murray lacks credibility because: Exhibit F shows correspondence between Lowlife and Trinity Street, not EBTM; lacks relevance under Doe v. Unocal Corp. 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes facts not in evidence; lacks relevance under Steel v. U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002); Declaration of Aron P. Rofer and Exhibits A-M are inadmissible because: information from EBTM's Website in February, 2008, four months after the complaint was filed, is irrelevant for jurisdictional purposes, Steel v. U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); pages printed from the Internet lack	Overruled

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	address. Can you confirm whether	authenticity and violate Federal Rules of Evidence Rule 901(a) because there is no date,	
3	Loser Kids	no proof of personal knowledge of who	
4	customers can	maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect 10</i> ,	
5	provide a different delivery address to	Inc. v. Cybernet Ventures, Inc. 213 F. Supp. 2d	
6	their billing addresses. If so, we	1146, 1154 (C.D. Cal. 2002); Wady v. Provident Life and Accident Ins. Co. of	
7	need to get both	America, 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence;	
8	addresses from Trinity Street"	lacks credibility in violation of <i>Rio Properties</i> , <i>Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019	
9	(Opp. 8:6-12)	(9th Cir. 2002); assumes facts not in evidence; lacks relevance under <i>C.D. Cal.Pebble Beach</i>	
10	Supporting Evidence	Co. v. Caddy, 453 F.3d 1151, 1155 (9th Cir.	
11	Murray Decl. ¶ 9 and Ex. F.; Rofer Decl. ¶ 12	2006).	
12	and Ex. K		
13	22. EBTM caused its	22. Objections:	22. □ Sustained
14	subsidiary Lowlife to delete a	Hearsay; no foundation; speculation; <u>Declaration of Mr. Murray</u> lacks credibility	☐ Overruled
15	Loserkids.uk.com	because: Exhibit F shows correspondence	
16	hyperlink from a site they operated,	between Lowlife and Trinity Street, not EBTM; lacks relevance under <i>Doe v</i> .	
17	Atticusclothing.co	Unocal Corp. 248 F.3d 915, 927 (C.A.9	
18	m, and add a new hyperlink from	(Cal.) 2001); assumes facts not in evidence; lacks foundation; lacks relevance	
19	Atticusclothing.co m to EBTM.com,	under Steel v. U.S., 813 F.2d 1545, 1549	
20	violating the	(C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility in violation of	
21	express terms of the Loserkids.uk.com	Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002)	
22	Wind-Down	284 F.3d 1007, 1019 (9th Clf. 2002)	
23	Agreement and intentionally	<u>Declaration of Aron P. Rofer</u> and Exhibits A-M are inadmissible because: information from	
24	diverting	EBTM's Website in February 2008, four	
25	commercial traffic to EBTM.com that	months after the complaint was filed; is irrelevant for jurisdictional purposes, <i>Steel v</i> .	
26	otherwise would	U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987);	
27	have gone to Loserkids.uk.com.	pages printed from the Internet lack authenticity and violate Federal Rules of	
28	(Opp. 8:18-22)	Evidence Rule 901(a) because there is no date, no proof of personal knowledge of who	
20		no proof of personal knowledge of who	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2 3 4 5 6 7 8	Supporting Evidence Murray Decl. ¶ 9 and Ex. F; Rofer Decl. ¶ 12 and Ex. K; Swart Decl. ¶ 6 and Ex. D	maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect 10</i> , <i>Inc. v. Cybernet Ventures, Inc.</i> 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); <i>Wady v. Provident Life and Accident Ins. Co. of America</i> , 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence; and lacks relevance under <i>C.D. Cal. Pebble Beach Co. v. Caddy, 453 F.3d 1151</i> ,	
9 10		1155 (9th Cir. 2006); Declaration of Patrick Swart and Exhibits A-D	
11 12		are inadmissible because: pages printed from the Internet lack authenticity and violate Federal Rules of Evidence Rule 901(a) because	
13		there is no date on the web pages showing when they were printed; no proof of personal knowledge of who maintains Web site, or who	
14 15		authored documents, or accuracy of contents. Perfect 10, Inc. v. Cybernet Ventures, Inc. 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady	
16 17 18 19		v. Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence; assumes facts not in evidence; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	
20	23. EBTM and Lowlife	23. Objections:	23. □ Sustained
21 22	were starving the Loserkids.uk.com site for fresh	Hearsay; no foundation; speculation; <u>Declaration of Patrick Swart</u> and Exhibits A-D are inadmissible because: pages printed from	□ Overruled
23	product, those same products were	the Internet lack authenticity and violate Federal Rules of Evidence Rule 901(a) because	
24	being ordered for	there is no date on the web pages showing when	
25	and sold on EBTM.com. (Opp. 9:3-5)	they were printed; no proof of personal knowledge of who maintains Web site, or who authored documents, or accuracy of contents.	
26 27	Supporting Evidence Swart Decl. ¶ 6 and	Perfect 10, Inc. v. Cybernet Ventures, Inc. 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady v. Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D.	
28	Ex. D	15	NO. 07 CV 2405 L CAI

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2 3 4		Cal. 2002); misstates testimony and evidence; assumes facts not in evidence; argumentative and states legal conclusion; lacks credibility in violation of <i>Rio Properties</i> , <i>Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002).	
5	24. When EBTM and	24. Objections:	24. □ Sustained
5	Lowlife did belatedly post new	Hearsay; no foundation; speculation; <u>Declaration of Patrick Swart</u> and Exhibits A-D	□ Overruled
7	product for sale on Loserkids.com,	are inadmissible because: pages printed from the Internet lack authenticity and violate	
3	they did so in a	Federal Rules of Evidence Rule 901(a) because	
	paucity of sizes in a transparent attempt	there is no date on the web pages showing when they were printed; no proof of personal knowledge of who maintains Web site, or who	
	to further harm the site while allowing	authored documents, or accuracy of contents.	
	EBTM and Lowlife to argue that they	Perfect 10, Inc. v. Cybernet Ventures, Inc. 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady	
	did post some new	v. Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D.	
$\ \ $	product. (Opp. 9:8-10)	Cal. 2002); misstates testimony and evidence; assumes facts not in evidence; lacks credibility	
	Supporting Evidence	in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002).	
111	Swart Decl. ¶ 68 and Ex. D		
' 	25. Additionally,	25. Objections:	25. □ Sustained
3	Lowlife as an agent of EBTM, failed to	Hearsay; no foundation; speculation; citation to	
	timely ship Atticus	Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir.	- Overruled
	product to Loserkids.com in	1995); argumentative; mischaracterizes facts; misstates testimony; vague and ambiguous;	
	the United States	calls for legal conclusion; assumes facts not in	
2	and failed to ship and/or post Atticus	evidence.	
3	and Macbeth Fall	<u>Declaration of Aron P. Rofer</u> and Exhibits A-M are inadmissible because: information from	
	2007 product on Loserkids.uk.com.	EBTM's Website in February 2008, four	
5	EBTM and Lowlife	months after the complaint was filed, is irrelevant for jurisdictional purposes, <i>Steel v</i> .	
	intentionally engaged in those	<i>U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); pages printed from the Internet lack	
'	actions or omissions in an	authenticity and violate Federal Rules of	
3 L	OHIISSIOHS III AH	Evidence Rule 901(a) because there is no date,	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	attempt to cause	no proof of personal knowledge of who	
3	commercial harm to RLP and its	maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect 10</i> ,	
4	affiliates and to	<i>Inc. v. Cybernet Ventures, Inc.</i> 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); <i>Wady v.</i>	
5	gain an unfair competitive	Provident Life and Accident Ins. Co. of	
6	advantage in the	America, 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence;	
7	marketplace, since RLP is a competitor	lacks credibility in violation of Rio Properties,	
8	of EBTM and	Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence;	
9	EBTM was at the same time receiving	lacks relevance under C.D. Cal.Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1155 (9th Cir.	
	and selling the	2006).	
10	same products on its own website.		
11			
12	Moreover, on August 31, 2007,		
13	Masters told RLP		
14	that Lowlife refused to ship		
15	Atticus product to		
16	RLP despite the prior agreement to		
17	do so, because		
18	Loserkids was a competitor of		
19	EBTM. (Opp.		
20	9:16-25)		
21	Supporting Evidence		
22	Compl. ¶¶ 46-51, 58-62, 65, 67-70; Rofer Decl. ¶		
23	4 and Ex. B (EBTM		
24	press release, dated August 15, 2007, stating		
25	that it had recently		
26	acquired Atticus); Compl. ¶ 61		
27	26. EBTM also	26. Objections:	26. □ Sustained
28	intentionally sought to divert sales from	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55	□ Overruled

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	RLP and its affiliates' websites	F.3d 1503, 1505 (10th Cir. 1995); argumentative; mischaracterizes facts;	
3	through a stealth	misstates testimony; vague and ambiguous; calls for legal conclusion; assumes facts not in	
4	scheme to misappropriate	evidence.	
5	Tom Delong's and Blink 182's names		
6	and celebrity by		
7	referencing them in the meta data for		
8	the Atticus		
9	webpage on EBTM.com. (Opp.		
10	9:27-28; 10:1-2)		
11	Supporting Evidence		
12	Compl. ¶¶ 166-173		
13	27. This meta data was known by EBTM to	27. Objections:	27. □ Sustained
14	be read and indexed	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55	☐ Overruled
15	by search engine algorithms	F.3d 1503, 1505 (10th Cir. 1995); argumentative; mischaracterizes facts;	
16	employed by	misstates testimony; vague and ambiguous;	
17	Google and other major internet	calls for legal conclusion; assumes facts not in evidence;	
18	search providers	Declaration of Patrick Swart and Exhibits A-D	
19	and must be intentionally coded	are inadmissible because: pages printed from	
20	by the owner of a site. (Opp. 10:2-4)	the Internet lack authenticity and violate Federal Rules of Evidence Rule 901(a) because	
21		there is no date on the web pages showing when they were printed; no proof of personal	
22	Supporting Evidence Compl. ¶ 170; Swart	knowledge of who maintains Web site, or who	
23	Decl. ¶ 4	authored documents, or accuracy of contents. Perfect 10, Inc. v. Cybernet Ventures, Inc. 213	
24		F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady v. Provident Life and Accident Ins. Co. of	
25		America, 216 F. Supp. 2d 1060, 1064 (C.D.	
26		Cal. 2002); misstates testimony and evidence; assumes facts not in evidence; lacks credibility	
27		in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002).	
28		, , , , , , , , , , , , , , , , , , ,	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	28. More specifically,	28. Objections:	28. □ Sustained
3 4	EBTM intentionally and knowingly included in its meta	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55	☐ Overruled
5	data for the Atticus web page,	F.3d 1503, 1505 (10th Cir. 1995); argumentative; lacks foundation; mischaracterizes facts; misstates testimony;	
6	http://www.ebtm.co	vague and ambiguous; calls for legal	
7	m/m-7-atticus- clothing-at-	conclusion; assumes facts not in evidence;	
8	ebtm.aspx, the	<u>Declaration of Patrick Swart</u> and Exhibits A-D are inadmissible because: pages printed from	
9	following phrases: "Atticus Clothing.	the Internet lack authenticity and violate	
10	Designed by Tom DeLonge" and	Federal Rules of Evidence Rule 901(a) because there is no date on the web pages showing when	
11	"Atticus Clothing T	they were printed; no proof of personal knowledge of who maintains Web site, or who	
12	Shirts T-Shirts tshirts blink 182."	authored documents, or accuracy of contents. Perfect 10, Inc. v. Cybernet Ventures, Inc. 213	
13	(Opp. 10:4-8)	F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady	
14	Supporting Evidence	v. Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D.	
15	Compl. ¶ 170; Swart Decl. ¶ 4	Cal. 2002); misstates testimony and evidence; assumes facts not in evidence; lacks credibility	
16	Deci. 4	in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002).	
17	29. RLP is informed	29. Objections:	29. □ Sustained
18	and believes and on	Hearsay; no foundation; speculation; citation to	□ Overruled
19	that basis alleges that EBTM	Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995);	□ Overrured
20 21	intentionally and knowingly inserted	argumentative; mischaracterizes facts; misstates testimony; vague and ambiguous; calls for	
22	these phrases in its website meta data	speculation and a legal conclusion; assumes facts not in evidence.	
23	as a stealth means		
24	to gain an unfair competitive		
25	advantage in the marketplace and to		
26	improperly		
27	advertise and divert commercial traffic		
28	from		
	Loserkids.com sites	19	
1			NO 07 CV 2405 L CAR

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	to the EBTM.com site, as EBTM		
3	knew that this meta		
4	data is read and		
	indexed by search		
5	engine algorithms employed by		
6	Google and other		
7	major internet		
8	search providers.		
9	(Opp. 10:9-14)		
	Supporting Evidence		
10	Compl. ¶ 170		
11	30. Statement by	30. Objections:	30. □ Sustained
12	EBTM in its meta	Hearsay; no foundation; speculation; citation to	
13	data besides being expressly	Complaint violates Wenz v. Memery Crystal, 55	☐ Overruled
	prohibited by	F.3d 1503, 1505 (10th Cir. 1995); argumentative; mischaracterizes facts;	
14	Atticus Asset	misstates testimony; vague and ambiguous;	
15	Purchase Agreement (See fn	calls for speculation and a legal conclusion; assumes facts not in evidence.	
16	5, <u>supra</u>) was also	assumes facts not in evidence.	
17	patently false, as		
18	none of the clothing		
	on EBTM's website was designed by		
19	Tom DeLonge.		
20	(Opp. 11:2-4)		
21	Supporting Evidence		
22	Compl. ¶ 171		
23			
24		GENERAL PERSONAL JURISDICTION	
	31. EBTM's website	31. Objections:	31. □ Sustained
25	advertises as doing	Hearsay; no foundation; speculation; citation to	
26	business in the United States and	Complaint violates Wenz v. Memery Crystal, 55	☐ Overruled
27	provides	F.3d 1503, 1505 (10th Cir. 1995); argumentative; mischaracterizes facts;	
28	conversions for	misstates testimony; vague and ambiguous;	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	prices in the U.S.	calls for speculation and a legal conclusion; assumes facts not in evidence; lacks relevance	
3	dollar. (Opp. 13:13-14)	under C.D. Cal. Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1155 (9th Cir. 2006).	
4	Supporting Evidence	(,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
5	Compl. ¶ 6		
6	32. The website is open	32. Objections:	32. □ Sustained
7	24-hours, seven days a week, for	Hearsay; no foundation; speculation; lacks	☐ Overruled
8	California	relevance under <i>Stover v. O'Connell Assocs.</i> , <i>Inc.</i> , 84 F.3d 132, 137 (4th Cir. 1996); <i>Zippo</i>	
9	consumers to visit the website,	<i>Mfg. Co. v. Zippo Dot Com, Inc.</i> , 952 F. Supp. 1119, 1125 (W.D. Pa. 1997); vague and	
10	purchase	ambiguous; calls for legal conclusion; assumes	
11	merchandise, and have the product	facts not in evidence.	
12	shipped to their		
13	home. (Opp. 13:14-16)		
14	Supporting Evidence		
15	www.ebtm.com		
16	33. In addition to	33. Objections:	33. □ Sustained
17	EBTM's frequent	Hearsay; no foundation; speculation; <u>Declaration of</u>	
18	sales to California consumers, EBTM	Aron P. Rofer and Exhibits A-M are inadmissible because: information from EBTM's Website in	☐ Overruled
	has other extensive	February, 2008, four months after the complaint	
19	contacts with California as	was filed, is irrelevant for jurisdictional purposes, <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9	
20	evidenced by its	(Cal.) 1987); pages printed from the Internet lack	
21	website and other publicly-available	authenticity and violate Federal Rules of Evidence Rule 901(a) because there is no date, no proof of	
22	documents. EBTM	personal knowledge of who maintains Web site, or who authored documents, or accuracy of contents,	
23	sells on its website clothing lines of	Perfect 10, Inc. v. Cybernet Ventures, Inc. 213 F.	
24	more than twenty	Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady v. Provident Life and Accident Ins. Co. of America,	
25	companies based in California,	216 F. Supp. 2d 1060, 1064 (C.D. Cal.	
26	including Adeline,	2002); misstates testimony and evidence; lacks credibility in violation of <i>Rio Properties, Inc. v.</i>	
27	Adio, Alliance, Bench, DC	Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir.	
28	Clothing, DC	2002); assumes facts not in evidence; and lacks relevance under <i>C.D. Cal.Pebble Beach Co. v.</i>	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	Shoes, Dekline	Caddy, 453 F.3d 1151, 1155 (9th Cir. 2006).	
3	Shoes, Draven, Eastpak USA,		
4	Fender, Hurley		
	International LLC,		
5	Iron Fist, Junk		
6	Food, Level 27, Lost Property,		
7	Macbeth, Rockett,		
8	To Die For, Vans		
9	Clothing, Vans Shoes, Vestal		
	Watch, Inc., and		
10	Vintage.		
11	a significant portion		
12	of EBTM's revenue		
13	appears to be		
	generated by its sale of California		
14	products. (Opp.		
15	13:17-24)		
16	Supporting Evidence		
17	Rofer Decl. ¶ 3		
18	34. Two recent	34. Objections:	34. □ Sustained
19	announcements	Hearsay; no foundation; speculation;	
20	from EBTM further emphasize its	Declaration of Aron P. Rofer and Exhibits	☐ Overruled
21	contacts with	A-M are inadmissible because: information from EBTM's Website in February 2008,	
22	California. On September 5,	four months after the complaint was filed, is	
23	2007, EBTM	irrelevant for jurisdictional purposes, <i>Steel</i> v. U.S., 813 F.2d 1545, 1549 (C.A.9	
	announced that it had entered into	(Cal.) 1987); pages printed from the	
24	"wholesale and	Internet lack authenticity and violate Federal Rules of Evidence Rule	
25	online retail	901(a) because there is no date, no proof of	
26	agreements" with Adeline, a	personal knowledge of who maintains Web	
27	California business.	site, or who authored documents, or accuracy of contents, <i>Perfect 10, Inc. v.</i>	
28		Cybernet Ventures, Inc. 213 F. Supp. 2d	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	This contract was	1146, 1154 (C.D. Cal. 2002); Wady v.	
	listed among the	Provident Life and Accident Ins. Co. of	
3	"Key Points" for	America, 216 F. Supp. 2d 1060, 1064 (C.D.	
4	EBTM's interim	Cal. 2002); misstates testimony and	
5	results for the six months ended	evidence; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> ,	
	October 31, 2007.	284 F.3d 1007, 1019 (9th Cir. 2002);	
6	0000001 31, 2007.	assumes facts not in evidence; lacks	
7	On November 19,	relevance under C.D. Cal. Pebble Beach Co.	
	2007, EBTM	v. Caddy, 453 F.3d 1151, 1155 (9th Cir.	
8	announced "the	2006); misstates Declaration of Malcolm P.	
9	launch of its US	Satchell \P 4; assumes facts not in evidence;	
10	webstore for Atticus	lacks relevance under C.D. Cal.Pebble	
10	Clothing" in	Beach Co. v. Caddy, 453 F.3d 1151, 1155	
11	partnership with Music Today, part	(9th Cir. 2006); lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l	
12	of the Live Nation	Interlink, 284 F.3d 1007, 1019 (9th Cir.	
	Group of	2002).	
13	companies. Live		
14	Nation is	Declaration of Amy Arroyo is inadmissible	
1.5	headquartered in	because: ¶ 3 constitutes hearsay; assumes	
15	California.	facts not in evidence; lacks relevance under	
16	EDTRA 1.1	Steel v. U.S., 813 F.2d 1545, 1549 (C.A.9	
17	EBTM stated that	(Cal.) 1987).	
	"[t]o work with Live Nation is a		
18	significant step for		
19	EBTM."		
20	EBTM further		
21	stated that the		
22	demand for its		
	Atticus product in		
23	North America was "strong" and that		
24	"the launch of the		
	US webstore is in		
25	line with our		
26	strategy for future		
27	growth."		
	37.		
28	Not surprisingly		

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	given all of the		
	above, EBTM's		
3	representatives and		
4	agents apparently		
ااء	travel frequently to California on		
5	business. Indeed, on		
6	December 11, 2007,		
7	when RLP		
	attempted to serve		
8	the summons and		
9	complaint in this		
	action upon		
10	Breeden in the		
11	United Kingdom,		
	he was traveling in		
12	California. (Opp.		
13	13:25-28; 14:1-10)		
14	Supporting Evidence		
15	Rofer Decl. ¶¶ 10-12,		
	Exs. I-L; Rofer Decl. ¶ at		
16	¶ 10 and Ex. I; Rofer Decl. ¶ 5 and Ex. C;		
17	Rofer Decl. ¶ 5 and		
1.0	Ex. C; Rofer Decl. ¶ 5		
18	and Ex. C; Satchell Decl.		
19	¶¶ 3-4;		
20	Arroyo Deci. ¶ 3	25 01:	25 🗖 3
21	35. Masters systematically	35. Objections:	35. □ Sustained
21	communicated with	Hearsay; no foundation; speculation; citation to	☐ Overruled
22	California-based	Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995);	
23	RLP regarding	argumentative; mischaracterizes facts;	
	Atticus and the	misstates testimony; vague and ambiguous;	
24	purportedly	calls for speculation and a legal conclusion;	
25	"emergency"	assumes facts not in evidence;	
	closure of the	Dedensies of Direct Control of	
26	Loserkids.uk.com	<u>Declaration of Diana Crawford</u> and Exhibits A- D are inadmissible because: the e-mails	
27	site described above	between Plaintiffs and Masters and/or Lowlife	
	in furtherance of	are irrelevant under <i>Doe v. Unocal Corp.</i> , 248	
28	EBTM's tortious	F.3d 915, 927 (C.A.9 (Cal.) 2001) and <i>Steel v</i> .	
	•		

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2 3	conduct. (Opp. 14:14-16)	U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987) because there was no direct correspondence with EBTM; misstates Ms.	
4	Supporting Evidence Compl. ¶ 120; Compl. ¶	Crawford's declaration; assumes facts not in evidence; lacks credibility in violation of	
5	25-30, 61, 76; Crawford Decl. ¶¶ 2-4 and Exs. A-	<i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th Cir. 2002).	
6 7	D	26 Objections	26 D Spectained
1	36. His email address for these	36. Objections:	36. □ Sustained
8	communications was	Hearsay; no foundation; speculation; <u>Declaration of Diana Crawford</u> and Exhibits A- D are inadmissible because: the e-mails	☐ Overruled
10	www.dale@ebtm.c om. (Opp. 14:18-	between Plaintiffs and Masters and/or Lowlife are irrelevant under <i>Doe v. Unocal Corp.</i> , 248	
11	19)	F.3d 915, 927 (C.A.9 (Cal.) 2001) and <i>Steel v</i> .	
12	Supporting Evidence	<i>U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987) because there was no direct	
13	Crawford Decl. ¶¶ 2-4 and Exs. A-D	correspondence with EBTM; misstates Ms. Crawford's declaration; assumes facts not in	
14	and Exs. A-D	evidence; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> ,	
15		284 F.3d 1007, 1019 (9th Cir. 2002).	
16	37. EBTM apparently	37. Objections:	37. □ Sustained
17	assumed Lowlife's role with regard to	Hearsay; no foundation; speculation; <u>Declaration of Diana Crawford</u> and Exhibits A-	☐ Overruled
18	performance of the	D are inadmissible because: the e-mails	
19	agreements at issue, as Masters informed	between Plaintiffs and Masters and/or Lowlife are irrelevant under <i>Doe v. Unocal Corp.</i> , 248	
20	RLP that they should correspond	F.3d 915, 927 (C.A.9 (Cal.) 2001) and <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9	
21	with EBTM director	(Cal.) 1987) because there was no direct	
22	Simon Hargreaves in response to	correspondence with EBTM; misstates Ms. Crawford's declaration; assumes facts not in	
23	RLP's complaints	evidence; lacks foundation; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l</i>	
24	about Lowlife's performance under	Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	
25	the agreements. (Opp. 14:19-22)	Declaration of Aron P. Rofer and Exhibits A-M	
26		are inadmissible because: information from EBTM's Website in February, 2008, four	
27	Supporting Evidence	months after the complaint was filed, is	
28	Crawford Decl., ¶ 4 and Ex. D; Rofer Decl., ¶ 9	irrelevant for jurisdictional purposes, <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987);	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	and Ex. H	pages printed from the Internet lack	
3		authenticity and violate Federal Rules of Evidence Rule 901(a) because there is no date,	
		no proof of personal knowledge of who	
4		maintains Web site, or who authored	
5		documents, or accuracy of contents, <i>Perfect 10</i> , <i>Inc. v. Cybernet Ventures, Inc.</i> 213 F. Supp. 2d	
6		1146, 1154 (C.D. Cal. 2002); Wady v.	
		Provident Life and Accident Ins. Co. of	
7		America, 216 F. Supp. 2d 1060, 1064 (C.D.	
8		Cal. 2002); misstates testimony and evidence; lacks credibility in violation of <i>Rio Properties</i> ,	
9		Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019	
		(9th Cir. 2002); assumes facts not in evidence;	
10		lacks relevance under C.D. Cal.Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1155 (9th Cir.	
11		2006).	
12	IMP	PUTING CONTACTS OF OTHERS TO EBT	M
13	38. Lowlife's acts	38. Objections:	38. □ Sustained
14	regarding the Atticus	Hearsay; no foundation; speculation;	
15	clothing line were	<u>Declaration of Aron P. Rofer</u> and Exhibits A-	☐ Overruled
	sufficiently important to EBTM that if it did	M are inadmissible because: information from EBTM's Website in February, 2008,	
16	not have Lowlife to	four months after the complaint was filed, is	
17	perform them, EBTM	irrelevant for jurisdictional purposes, <i>Steel v</i> .	
18	would have	U.S., 813 F.2d 1545, 1549 (C.A.9	
	undertaken to perform	(Cal.) 1987); pages printed from the Internet lack authenticity and violate Federal Rules of	
19	substantially similar services. (Opp. 15:22-	Evidence Rule 901(a) because there is no	
20	24	date, no proof of personal knowledge of who	
21		maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect</i>	
	Supporting Evidence	10, Inc. v. Cybernet Ventures, Inc. 213 F.	
22		Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady	
23		v. Provident Life and Accident Ins. Co. of	
24		<i>America</i> , 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and	
		evidence; lacks credibility in violation of	
25		Rio Properties, Inc. v. Rio Int'l Interlink, 284	
26		F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence; lacks relevance under	
27		C.D. Cal. Pebble Beach Co. v. Caddy, 453	
		F.3d 1151, 1155 (9th Cir. 2006).	
28			

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	39. Actions taken by	39. Objections:	39. □ Sustained
3	Lowlife with regard to design, manufacture, and distribution of	Hearsay; no foundation; speculation; no evidence cited in support of this conclusion.	☐ Overruled
5	retail clothing brands – in particular, the		
6	Atticus brand – were		
7	sufficiently important that EBTM would		
8	have performed the		
9	actions had Lowlife not done so. (16:4-7)		
10	Supporting Evidence		
11	Supporting Evidence		
12	PU	RPOSEFUL & INTENTIONAL ALLEGATIO	NS
13	40. EBTM's secret plot to	40. Objections:	40. □ Sustained
14	shut-down RLP's website and take over	Hearsay; no foundation; speculation; citation to Complaint violates <i>Wenz v. Memery</i>	☐ Overruled
15	fulfillment	Crystal, 55 F.3d 1503, 1505 (10th Cir.	
16	(Opp.17:11-12)	1995); argumentative; mischaracterizes facts; misstates testimony; vague and ambiguous;	
17	Supporting Evidence	calls for legal conclusion; assumes facts not in evidence;	
18	Compl. ¶¶ 71-81; Murray Decl. ¶¶ 3-7, 10-11 and Exs	3.	
19	A-D	<u>Declaration of Mr. Murray</u> lacks credibility because: Exhibit F shows correspondence	
20		between Lowlife and Trinity Street, not EBTM; lacks relevance under <i>Doe v</i> .	
21		Unocal Corp. 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes facts not in	
22		evidence; lacks relevance under Steel v. U.S.,	
23		813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility	
24		in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> , 284 F.3d 1007, 1019 (9th	
25		Cir. 2002)	
26	41.EBTM's theft of	41. Objections:	41. □ Sustained
27 28	RLP's customer data (Opp. 17:13-14)	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir.	□ Overruled

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	Supporting Evidence	1995); argumentative; <i>mischaracterizes</i> facts; misstates testimony; vague and	
3	Compl. ¶¶ 132-142; Murray	ambiguous; calls for legal conclusion;	
4	Decl. ¶¶ 8-9, 12 and Exs. E-F, H	assumes facts not in evidence;	
5		<u>Declaration of Mr. Murray</u> lacks credibility because: Exhibit F shows correspondence	
6		between Lowlife and Trinity Street, <i>not</i> EBTM; lacks relevance under <i>Doe v</i> .	
7		Unocal Corp. 248 F.3d 915, 927 (C.A.9	
8		(Cal.) 2001); assumes facts not in evidence; lacks relevance under <i>Steel v. U.S.</i> , 813 F.2d	
9		1545, 1549 (C.A.9 (Cal.) 1987); calls for	
10		legal conclusion; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l</i>	
11		Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	
12	42. EBTM's various acts	42. Objections:	42. □ Sustained
13	to divert business from Loserkids.uk.com to	Hearsay, no foundation, speculation, citation	☐ Overruled
14	EBTM.com	to complaint violates <i>Wenz v. Memery Crystal</i> , 55 F.3d 1503, 1505 (10th Cir.	- Overruieu
15	(Opp. 17:15-16)	1995); argumentative; mischaracterizes facts;	
16	Supporting Evidence	misstates testimony; vague and ambiguous; calls for legal conclusion; assumes facts not	
17	Compl. ¶¶ 28-29, 65-66, 71-	in evidence;	
18	81,153-54,160-61; Swart Decl. ¶ 6 and Ex. D	Declaration of Patrick Swart and Exhibits	
19		A-D are inadmissible because: (1) pages printed from the Internet lack authenticity	
		and violate Federal Rules of Evidence Rule	
20		901(a) because there is no date on the web pages showing when they were printed; no	
21		proof of personal knowledge of who maintains Web site, or who authored	
22		documents, or accuracy of contents. Perfect	
23		10, Inc. v. Cybernet Ventures, Inc. 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady	
24		v. Provident Life and Accident Ins. Co. of	
25		America, 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and	
26		evidence; assumes facts not in evidence;	
27		lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284	
28		F.3d 1007, 1019 (9th Cir. 2002).	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2	43. EBTM's failure to	43. Objections:	43. □ Sustained
3 4	ship Atticus for sale on RLP's websites (Opp. 17:17-18)	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir.	□ Overruled
5	Supporting Evidence	1995); argumentative; mischaracterizes facts; misstates testimony; vague and	
6	Compl. ¶¶ 46-51,58-62, 65, 67-70; Rofer Decl. ¶ 4 and	ambiguous; calls for legal conclusion; assumes facts not in evidence;	
7	Ex. B (EBTM acquired	Declaration of Aron P. Rofer and Exhibits A-	
8	Atticus)	M are <i>inadmissible</i> because: information	
9		from EBTM's Website in February 2008, four months after the complaint was filed, is	
10 11		irrelevant for jurisdictional purposes, <i>Steel v. U.S.</i> , 813 F.2d 1545, 1549 (C.A.9	
12		(Cal.) 1987); pages printed from the Internet lack authenticity and violate Federal Rules of	
13		Evidence Rule 901(a) because there is no date, no proof of personal knowledge of who	
14		maintains Web site, or who authored documents, or accuracy of contents, <i>Perfect</i>	
15		10, Inc. v. Cybernet Ventures, Inc. 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady	
16		v. Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D.	
17		Cal. 2002); misstates testimony and evidence; lacks credibility in violation of	
18		Rio Properties, Inc. v. Rio Int'l Interlink, 284	
19		F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence; and lacks relevance	
20 21		under C.D. Cal. Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1155 (9th Cir. 2006).	
22	44. EBTM's use of the	44. Objections:	44. ☐ Sustained
23	name and likeness of RLP's owner in	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery	☐ Overruled
24	advertising EBTM's website and products	<i>Crystal</i> , 55 F.3d 1503, 1505 (10th Cir. 1995); argumentative; mischaracterizes	
25	in an attempt to divert sales and consumers	facts; misstates testimony; vague and ambiguous; calls for legal conclusion;	
26	from Plaintiffs'	assumes facts not in evidence;	
27	websites. (Opp. 17:19-21)	Declaration of Patrick Swart and	
28		Exhibits A-D are inadmissible because: pages printed from the <i>Internet</i> lack	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2 3 4 5 6 7 8 9	Supporting Evidence Compl. ¶¶ 167-170; Swart Decl. ¶¶ 2-4 and Exs. A-B	authenticity and violate Federal Rules of Evidence Rule 901(a) because there is no date on the web pages showing when they were printed; no proof of personal knowledge of who maintains Web site, or who authored documents, or accuracy of contents. Perfect 10, Inc. v. Cybernet Ventures, Inc. 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady v. Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence; assumes facts not in evidence; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	
11	45. EBTM apparently	45. Objections:	45. □ Sustained
12	assumed Lowlife's role with regard to	Hearsay; no foundation; speculation; <u>Declaration of Diana Crawford</u> and Exhibits	□ Overruled
13	performance of the agreements at issue, as	A-D are <i>inadmissible</i> because: the e-mails between Plaintiffs and Masters and/or	
14	Masters informed RLP	Lowlife are irrelevant under Doe v. Unocal	
15	that they should correspond with	Corp., 248 F.3d 915, 927 (C.A.9 (Cal.) 2001) and Steel v. U.S., 813 F.2d	
16	EBTM director Simon Hargreaves in	1545, 1549 (C.A.9 (Cal.) 1987) because there was no direct correspondence with	
17 18	response to RLP's complaints about	EBTM; misstates Ms. Crawford's declaration; assumes facts not in	
19	Lowlife's performance	evidence; lacks credibility in violation of <i>Rio Properties, Inc. v. Rio Int'l Interlink</i> ,	
20	under the agreements. (Opp. 17:26-28)	284 F.3d 1007, 1019 (9th Cir. 2002);	
21	Supporting Evidence	<u>Declaration of Aron P. Rofer</u> and Exhibits A-M are inadmissible because: information	
22	Crawford Decl. ¶ 4 and	from EBTM's Website in February 2008,	
23	Ex. D; Rofer Decl. ¶ 9 and Ex. H	four months after the complaint was filed, is irrelevant for jurisdictional purposes, <i>Steel v</i> .	
24		<i>U.S.</i> , 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); pages printed from the Internet	
25		lack authenticity and violate Federal <i>Rules</i> of Evidence Rule 901(a) because there is no	
26		date, no proof of personal knowledge of who maintains Web site, or who authored	
27		documents, or accuracy of contents, <i>Perfect</i> 10, <i>Inc. v. Cybernet Ventures, Inc.</i> 213 F.	
28		Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady	

Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2 3 4 5 6 6	v. Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002); misstates testimony and evidence; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002); assumes facts not in evidence; lacks relevance under C.D. Cal.Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1155 (9th Cir. 2006).	
46. EBTM purposefully	46. Objections:	46. ☐ Sustained
interjected itself into the forum state when it engaged in intentional wrongful conduct targeted at RLP, whom it knew to be a resident of	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995); argumentative; mischaracterizes facts; misstates testimony; vague and ambiguous; calls for legal conclusion; assumes facts not in evidence;	□ Overruled
[]] California. For		
example, as noted above, EBTM secretly	<u>Declaration of Mr. Murray</u> lacks credibility because: Exhibit F shows correspondence	
plotted to shut down	between Lowlife and Trinity Street, not EBTM; lacks relevance under <i>Doe v</i> .	
RLP's website and steal its customer data. (Opp. 19:7-11)	Unocal Corp. 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes facts not in evidence; lacks relevance under Steel v. U.S., 813 F.2d	
	1545, 1549 (C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility in	
Compl. ¶¶ 71-81; Murray	violation of Rio Properties, Inc. v. Rio Int'l	
Decl. ¶¶ 3-12 and Exs. A-H	Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	
47. EBTM's President.	47. Objections:	47. □ Sustained
Breeden, and its Executive Director,	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery	□ Overruled
Masters, falsely and	Crystal, 55 F.3d 1503, 1505 (10th Cir.	
fraudulently informed the website's	1995); argumentative; mischaracterizes facts; misstates <i>testimony</i> ; vague and	
fulfillment provider	ambiguous; calls for legal conclusion; assumes facts not in evidence;	
Loserkids.uk.com and		
gave instructions to shut down the site and	<u>Declaration of Mr. Murray</u> lacks credibility because: Exhibit F shows <i>correspondence</i>	
transfer allioserkids.uk.com	between Lowlife and Trinity Street, not EBTM; lacks relevance under <i>Doe v</i> .	

1	Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
2 3 4 5 6	inventory to EBTM. (Opp. 19:11-14) Supporting Evidence Compl. ¶¶ 71-81; Murray Decl. ¶¶ 3-12 and Exs. A-H	Unocal Corp. 248 F.3d 915, 927 (C.A.9 (Cal.) 2001); assumes facts not in evidence; lacks relevance under Steel v. U.S., 813 F.2d 1545, 1549 (C.A.9 (Cal.) 1987); calls for legal conclusion; lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002)	
7	48. EBTM unlawfully used the name,	48. Objections:	48. □ Sustained
8 9 10 11	likeness, and celebrity of RLP's founder Tom DeLonge and his former band Blink 182 in a stealth scheme to promote its website, EBTM.com and divert	Hearsay; no foundation; speculation; citation to Complaint violates Wenz v. Memery Crystal, 55 F.3d 1503, 1505 (10th Cir. 1995); argumentative; mischaracterizes facts; misstates testimony; vague and ambiguous; calls for legal conclusion; assumes facts not in evidence;	□ Overruled
12 13	sales and consumers from RLP's own	Declaration of Patrick Swart and Exhibits A-D are inadmissible because: pages printed from the Internet lack authenticity	
14 15	competing websites. (Opp. 19:14-17)	and violate Federal Rules of Evidence Rule 901(a) because there is no date on	
16	Supporting Evidence Compl. ¶¶ 166-170; Swart	the web pages showing when they were printed; no proof of personal knowledge	
17 18	Decl. ¶¶ 2-4 and Exs. A-B; Arroyo Decl. ¶ 2 and Ex. A	of who maintains Web site, or who authored documents, or accuracy of contents. <i>Perfect 10, Inc. v. Cybernet</i>	
19		Ventures, Inc. 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002); Wady v.	
20		Provident Life and Accident Ins. Co. of America, 216 F. Supp. 2d 1060, 1064	
21		(C.D. Cal. 2002); misstates testimony and evidence; assumes facts not in evidence;	
23		and lacks credibility in violation of	
24		Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002);	
25		Declaration of Amy Arroyo is	
26		inadmissible because: ¶ 2 pages printed from the Internet lack authenticity and	
27		violate Federal Rules of Evidence Rule 901(a) because there is no proof <i>of</i>	
28		- (,	1

Plaintiffs' Opposition	Evidentiary Objections	Judge's Ruling
	personal knowledge of who maintains Web site, or who authored documents, or accuracy of contents, <i>Wady v. Provident Life and Accident Ins. Co. of America</i> , 216 F. Supp. 2d 1060, 1064 (C.D. Cal. 2002).	
49. In just the last two months, Breeden has traveled to California, and EBTM rented exhibition space and attended an industry trade show in California. (Opp. 20:3-5) Supporting Evidence Satchell Decl. ¶ 3-4; Arroyo Decl. ¶ 4	49. Objections: Hearsay; no foundation; speculation; misstates Declaration of Malcolm P. Satchell ¶ 4; assumes facts not in evidence; lacks relevance under C.D. Cal.Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1155 (9th Cir. 2006); lacks credibility in violation of Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1019 (9th Cir. 2002).	49. □ Sustained □ Overruled
Dated: February 25, 2008	SELTZER CAPLAN McMAHON VITEK A Law Corporation	
	By: /s/ Monty A. McIntyre	
	Gerald L. McMahon, Esq.	
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